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Via U.S. First Class Mail

April 7, 2016

Gina McCarthy, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Loretta Lynch, U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Thomas Howard, Executive Director
State Water Resources Control Board
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Sacramento, CA 95814
P.O. Box 100
Sacramento, CA 95812-0100

Jared Blumenfeld, Administrator
U.S. EPA – Region 9
75 Hawthorne Street
San Francisco, CA, 94105

Samuel Unger, Executive Officer
Regional Water Quality Control Board
Los Angeles Region
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

Re: *Environmental Defense Center v. California Resources Corporation*
United States District Court Case No. 2:16-cv-02325-RSWL-RAO

Dear Sirs and Madams,

Pursuant to 40 C.F.R. § 135.4, please find enclosed a copy of the complaint filed in the above referenced case on April 5, 2016.

Sincerely,

A handwritten signature in blue ink, appearing to read "Doug J. Chermak", is written over a light blue rectangular background.

Douglas J. Chermak
Attorney for Plaintiff *Environmental Defense Center*
Encl.

ENCLOSURE

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16 Attorneys for Plaintiff
17 ENVIRONMENTAL DEFENSE CENTER

18 **UNITED STATES DISTRICT COURT**
19 **CENTRAL DISTRICT OF CALIFORNIA**

20 ENVIRONMENTAL DEFENSE
21 CENTER, a non-profit corporation,

22 Plaintiff,

23 vs.

24 CALIFORNIA RESOURCES
25 CORPORATION, a corporation,

26 Defendant.

Case No. _____

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF AND
CIVIL PENALTIES

(Federal Water Pollution Control Act,
33 U.S.C. §§ 1251 to 1387)

1 ENVIRONMENTAL DEFENSE CENTER (“EDC”), a California non-profit
2 association, by and through its counsel, hereby alleges:

3 **I. JURISDICTION AND VENUE**

4 1. This is a civil suit brought under the citizen suit enforcement provisions
5 of the Federal Water Pollution Control Act, 33 U.S.C. § 1251, *et seq.* (the “Clean
6 Water Act” or “the Act”). This Court has subject matter jurisdiction over the parties
7 and the subject matter of this action pursuant to Section 505(a)(1)(A) of the Act, 33
8 U.S.C. § 1365(a)(1)(A), and 28 U.S.C. § 1331 (an action arising under the laws of the
9 United States). The relief requested is authorized pursuant to 28 U.S.C. §§ 2201-02
10 (power to issue declaratory relief in case of actual controversy and further necessary
11 relief based on such a declaration); 33 U.S.C. §§ 1319(b), 1365(a) (injunctive relief);
12 and 33 U.S.C. §§ 1319(d), 1365(a) (civil penalties).

13 2. On January 19, 2016, Plaintiff provided notice of Defendant’s violations
14 of the Act, and of Plaintiff’s intention to file suit against Defendant, to the
15 Administrator of the United States Environmental Protection Agency (“EPA”); the
16 Administrator of EPA Region IX; the Executive Director of the State Water
17 Resources Control Board (“State Board”); the Executive Officer of the California
18 Regional Water Quality Control Board, Los Angeles Region (“Regional Board”); and
19 to Defendant, as required by the Act, 33 U.S.C. § 1365(b)(1)(A). A true and correct
20 copy of EDC’s notice letter is attached as Exhibit A, and is incorporated by reference.
21

22 3. More than sixty days have passed since notice was served on Defendant
23 and the State and federal agencies. Plaintiff is informed and believes, and thereupon
24 alleges, that neither the EPA nor the State of California has commenced or is
25 diligently prosecuting a court action to redress the violations alleged in this complaint.
26 This action’s claim for civil penalties is not barred by any prior administrative penalty
27 under Section 309(g) of the Act, 33 U.S.C. § 1319(g).

28 4. Venue is proper in the Central District of California pursuant to Section

1 505(c)(1) of the Act, 33 U.S.C. § 1365(c)(1), because the source of the violations is
2 located within this judicial district.

3 **II. INTRODUCTION**

4 5. This complaint seeks relief for Defendant's discharges of polluted storm
5 water and non-storm water pollutants from Defendant's South Mountain oil and gas
6 field located at 19242 South Mountain Road in Santa Paula, California ("South
7 Mountain" or "Facility") in violation of the Act and National Pollutant Discharge
8 Elimination System ("NPDES") Permit No. CAS000001, State Water Resources
9 Control Board Water Quality Order No. 97-03-DWQ ("1997 Permit"), as renewed by
10 Water Quality Order No. 2014-0057-DWQ ("2015 Permit") (the permits are
11 collectively referred to hereinafter as the "Permit" or "General Permit"). Defendant's
12 violations of the discharge, treatment technology, monitoring requirements, and other
13 procedural and substantive requirements of the Permit and the Act are ongoing and
14 continuous.

15 **III. PARTIES**

16 6. Plaintiff EDC is a California non-profit corporation and law firm with its
17 principal place of business located at 906 Garden Street, Santa Barbara, CA 93101,
18 and offices also located at 111 W. Topa Topa Street, Ojai, CA 93023. EDC was
19 founded in 1977 and is dedicated to the preservation and enhancement of the local
20 environment through education, advocacy, and legal action. EDC represents itself and
21 other organizations in protecting coast and ocean resources, open spaces and wildlife,
22 and human and environmental health. EDC has approximately 3,000 members,
23 including scientists, lawyers, students and citizens who live, recreate, and work in and
24 around waters of the State of California, including the Pacific Ocean and coastal
25 creeks flowing into the Ocean from the South Mountain oil and gas field. EDC was
26 formed to empower local citizens "to protect themselves and their communities" by
27 serving as "the legal action arm of the environmental community." EDC brings this
28

1 action on behalf of its members. EDC's interests in reducing Defendant's discharges
2 of pollutants into the Pacific Ocean and coastal creeks flowing into the Ocean and
3 requiring Defendant to comply with the requirements of the General Permit are
4 germane to its purposes. Litigation of the claims asserted and relief requested in this
5 Complaint does not require the participation in this lawsuit of individual members of
6 EDC.

7 7. Members of EDC reside in coastal communities that value and depend
8 upon the Pacific Ocean, as well as the surface waters which eventually flow into the
9 ocean. The South Mountain oil and gas field is located near the Santa Clara River and
10 Calleguas Creek in Ventura County. These waters flow into the Pacific Ocean.
11 Members of EDC use and enjoy the waters into which Defendant has caused, is
12 causing, and will continue to cause, pollutants to be discharged. Plaintiff's members
13 use these areas to swim, bird watch, boat, sail, kayak, surf, view wildlife, fish, and
14 engage in scientific study including monitoring activities, among other things.
15 Defendant's discharges of pollutants threaten or impair each of those uses or
16 contribute to such threats and impairments. Thus, the interests of Plaintiff's members
17 have been, are being, and will continue to be adversely affected by Defendant's
18 failure to comply with the Clean Water Act and the Permit. The relief sought herein
19 will redress the harms to Plaintiff caused or contributed to by Defendant's activities.
20

21 8. Continuing commission of the acts and omissions alleged above will
22 irreparably harm Plaintiff and one or more of its members, for which harm they have no
23 plain, speedy or adequate remedy at law.

24 9. Defendant California Resources Corporation ("CRC") is a corporation
25 organized under the laws of California. CRC's business focuses on the exploration
26 and development of oil and gas resources in California, and the company is the largest
27 oil and gas producer in the state. CRC operates several additional oil and gas fields in
28 addition to the South Mountain oil and gas field at issue in this action.

1 **IV. STATUTORY BACKGROUND**

2 10. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of
3 any pollutant into waters of the United States, unless such discharge is in compliance
4 with various enumerated sections of the Act. Among other things, Section 301(a)
5 prohibits discharges not authorized by, or in violation of, the terms of an NPDES
6 permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342.

7 11. Section 402(p) of the Act establishes a framework for regulating
8 municipal and industrial storm water discharges under the NPDES program. 33
9 U.S.C. § 1342(p). States with approved NPDES permit programs are authorized by
10 Section 402(p) to regulate industrial storm water discharges through individual
11 permits issued to dischargers or through the issuance of a single, statewide general
12 permit applicable to all industrial storm water dischargers. 33 U.S.C. § 1342(p).

13 12. Pursuant to Section 402 of the Act, 33 U.S.C. § 1342, the Administrator
14 of the U.S. EPA has authorized California's State Board to issue NPDES permits
15 including general NPDES permits in California.

16 13. The State Board elected to issue a statewide general permit for industrial
17 storm water discharges. The State Board originally issued the General Permit on or
18 about November 19, 1991. The State Board modified the General Permit on or about
19 September 17, 1992. Pertinent to this action, the State Board reissued the General
20 Permit on or about April 17, 1997 (the "1997 Permit"), and again on or about April 1,
21 2014 (the "2015 Permit"), pursuant to Section 402(p) of the Clean Water Act, 33
22 U.S.C. § 1342(p). The 1997 Permit was in effect between 1997 and June 30, 2015.
23 The 2015 Permit went into effect on July 1, 2015. The 2015 Permit maintains or
24 makes more stringent the same requirements as the 1997 Permit.

25 14. In order to discharge storm water lawfully in California, industrial
26 dischargers must comply with the terms of the General Permit or have obtained and
27 complied with an individual NPDES permit. 33 U.S.C. § 1311(a).
28

1 15. The General Permit contains several prohibitions. Effluent Limitation
2 B(3) of the 1997 Permit and Effluent Limitation V(A) of the 2015 Permit require
3 dischargers to reduce or prevent pollutants in their storm water discharges through
4 implementation of the Best Available Technology Economically Achievable (“BAT”)
5 for toxic and nonconventional pollutants and the Best Conventional Pollutant Control
6 Technology (“BCT”) for conventional pollutants. Discharge Prohibition A(2) of the
7 1997 Permit and Discharge Prohibition III(C) of the 2015 Permit prohibit storm water
8 discharges and authorized non-storm water discharges that cause or threaten to cause
9 pollution, contamination, or nuisance. Receiving Water Limitation C(1) of the 1997
10 Permit and Receiving Water Limitation VI(B) of the 2015 Permit prohibit storm water
11 discharges to any surface or ground water that adversely impact human health or the
12 environment. Receiving Water Limitation C(2) of the 1997 Permit and Receiving
13 Water Limitation VI(A) and Discharge Prohibition III(D) of the 2015 Permit prohibit
14 storm water discharges that cause or contribute to an exceedance of any applicable
15 water quality standards contained in Statewide Water Quality Control Plan or the
16 applicable Regional Board’s Basin Plan.

17 16. In addition to absolute prohibitions, the General Permit contains a variety
18 of substantive and procedural requirements that dischargers must meet. Facilities
19 discharging, or having the potential to discharge, storm water associated with
20 industrial activity that have not obtained an individual NPDES permit must apply for
21 coverage under the State’s General Permit by filing a Notice of Intent to Comply
22 (“NOI”). Dischargers have been required to file NOIs since March 30, 1992.

23 17. Dischargers must develop and implement a Storm Water Pollution
24 Prevention Plan (“SWPPP”). The SWPPP must describe storm water control facilities
25 and measures that comply with the BAT and BCT standards. The General Permit
26 requires that an initial SWPPP has been developed and implemented before October
27 1, 1992. The objective of the SWPPP requirement is to identify and evaluate sources
28

1 of pollutants associated with industrial activities that may affect the quality of storm
2 water discharges and authorized non-stormwater discharges from the facility, and to
3 implement best management practices (“BMPs”) to reduce or prevent pollutants
4 associated with industrial activities in storm water discharges and authorized non-
5 storm water discharges. *See* 1997 Permit § A(2); 2015 Permit § X(C). These BMPs
6 must achieve compliance with the General Permit’s effluent limitations and receiving
7 water limitations, including the BAT and BCT technology mandates. To ensure
8 compliance with the General Permit, the SWPPP must be evaluated and revised as
9 necessary. 1997 Permit §§ A(9), (10); 2015 Permit § X(B). Failure to develop or
10 implement an adequate SWPPP, or update or revise an existing SWPPP as required, is
11 a violation of the General Permit. 2015 Permit Fact Sheet § I(1).

12 18. Sections A(3)-A(10) of the 1997 Permit set forth the requirements for a
13 SWPPP. Among other requirements, the SWPPP must include: a pollution prevention
14 team; a site map; a list of significant materials handled and stored at the site; a
15 description of potential pollutant sources; an assessment of potential pollutant sources;
16 and a description of the BMPs to be implemented at the facility that will reduce or
17 prevent pollutants in storm water discharges and authorized non-stormwater
18 discharges, including structural BMPs where non-structural BMPs are not effective.
19 Sections X(D) – X(I) of the 2015 Permit set forth essentially the same SWPPP
20 requirements as the 1997 Permit, except that all dischargers are now required to
21 develop and implement a set of minimum BMPs, as well as any advanced BMPs as
22 necessary to achieve BAT/BCT, which serve as the basis for compliance with the
23 2015 Permit’s technology-based effluent limitations and receiving water limitations.
24 *See* 2015 Permit § X(H). The 2015 Permit further requires a more comprehensive
25 assessment of potential pollutant sources than the 1997 Permit; more specific BMP
26 descriptions; and an additional BMP summary table identifying each identified area of
27 industrial activity, the associated industrial pollutant sources, the industrial pollutants,
28

1 and the BMPs being implemented. See 2015 Permit §§ X(G)(2), (4), (5).

2 19. The 2015 Permit requires dischargers to implement and maintain, to the
3 extent feasible, all of the following minimum BMPs in order to reduce or prevent
4 pollutants in industrial storm water discharges: good housekeeping, preventive
5 maintenance, spill and leak prevention and response, material handling and waste
6 management, erosion and sediment controls, an employee training program, and
7 quality assurance and record keeping. See 2015 Permit, § X(H)(1). Failure to
8 implement all of these minimum BMPs is a violation of the 2015 Permit. See 2015
9 Permit Fact Sheet § I(2)(o). The 2015 Permit further requires dischargers to
10 implement and maintain, to the extent feasible, any one or more of the following
11 advanced BMPs necessary to reduce or prevent discharges of pollutants in industrial
12 storm water discharges: exposure minimization BMPs, storm water containment and
13 discharge reduction BMPs, treatment control BMPs, and other advanced BMPs. See
14 2015 Permit, § X(H)(2). Failure to implement advanced BMPs as necessary to
15 achieve compliance with either technology or water quality standards is a violation of
16 the 2015 Permit. *Id.* The 2015 Permit also requires that the SWPPP include BMP
17 Descriptions and a BMP Summary Table. See 2015 Permit § X(H)(4), (5).

18 20. The General Permit requires dischargers to develop and implement an
19 adequate written Monitoring and Reporting Program. The primary objective of the
20 Monitoring and Reporting Program is to detect and measure the concentrations of
21 pollutants in a facility's discharge to ensure compliance with the General Permit's
22 discharge prohibitions, effluent limitations, and receiving water limitations. As part
23 of their monitoring program, dischargers must identify all storm water discharge
24 locations that produce a significant storm water discharge, evaluate the effectiveness
25 of BMPs in reducing pollutant loading, and evaluate whether pollution control
26 measures set out in the SWPPP are adequate and properly implemented. The 1997
27 Permit required dischargers to collect storm water samples during the first hour of
28

1 discharge from the first storm event of the wet season, and at least one other storm
2 event during the wet season, from all storm water discharge locations at a facility. *See*
3 1997 Permit, § B(5). The 2015 Permit now mandates that facility operators sample
4 *four* (rather than two) storm water discharges from all discharge locations over the
5 course of the reporting year. *See* 2015 Permit, §§ XI(B)(2), (3).

6 21. Facilities are required to make monthly visual observations of storm
7 water discharges. The visual observations must represent the quality and quantity of
8 the facility's storm water discharges from the storm event. 1997 Permit, § B(7); 2015
9 Permit, § XI.A.

10 22. Under the 1997 Permit, facilities must analyze storm water samples for
11 "toxic chemicals and other pollutants that are likely to be present in storm water
12 discharges in significant quantities." 1997 Permit, Section B(5)(c)(ii). Under the
13 2015 Permit, facilities must analyze storm water samples for "[a]dditional parameters
14 identified by the Discharger on a facility-specific basis that serve as indicators of the
15 presence of all industrial pollutants identified in the pollutant source assessment."
16 2015 Permit, Section XI(B)(6)(c).

17 23. The General Permit does not provide for any mixing zones by
18 dischargers. The General Permit does not provide for any receiving water dilution
19 credits to be applied by dischargers.
20

21 24. The Regional Board has established water quality standards for the Los
22 Angeles River Watershed in the "Water Quality Control Plan – Los Angeles Region:
23 Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties",
24 generally referred to as the Basin Plan.

25 25. The Basin Plan includes a narrative toxicity standard which states that
26 "[a]ll waters shall be maintained free of toxic substances in concentrations that are
27 toxic to, or that produce detrimental physiological responses in, human, plant, animal,
28 or aquatic life."

1 26. The Basin Plan provides that “[w]aters shall not contain suspended or
2 settleable material in concentrations that cause nuisance or adversely affect beneficial
3 uses.”

4 27. The Basin Plan provides that “[t]he pH of bays or estuaries [or inland
5 surface waters] shall not be depressed below 6.5 or raised above 8.5 as a result of
6 waste discharges.”

7 28. The Basin Plan provides that “[s]urface waters shall not contain
8 concentrations of chemical constituents in amounts that adversely affect any
9 designated beneficial use.”

10 29. The Basin Plan provides that “[w]aters shall not contain floating
11 materials, including solids, liquids, foams, and scum, in concentrations that cause
12 nuisance or adversely affect beneficial uses.”

13 30. The Basin Plan provides that “[w]aters shall be free of coloration that
14 causes nuisance or adversely affects beneficial uses.”

15 31. The Basin Plan provides that “[w]aters shall be free of changes in
16 turbidity that cause nuisance or adversely affect beneficial uses.”

17 32. EPA has established Parameter Benchmark Values as guidelines for
18 determining whether a facility discharging industrial storm water has implemented the
19 requisite BAT and BCT. These benchmarks represent pollutant concentrations at
20 which a storm water discharge could potentially impair, or contribute to impairing,
21 water quality, or affect human health from ingestion of water or fish. The following
22 EPA benchmarks have been established for pollution parameters applicable to South
23 Mountain: pH—6.0-9.0 s.u.; total suspended solids (“TSS”)—100 mg/L; specific
24 conductance (“SC”)—200 uhmos/cm; total organic carbon (“TOC”)—110 mg/L; oil
25 and grease (“O&G”)—15 mg/L; and iron—1.0 mg/L/L.

26 33. These benchmarks are reflected in the 2015 Permit in the form of
27 Numeric Action Levels (“NALs”). The 2015 Permit incorporates annual NALs,
28

1 which reflect the 2008 MSGP benchmark values, and instantaneous maximum NALs,
2 which are derived from a Water Board dataset. The following annual NALs have
3 been established under the 2015 Permit: TSS—100 mg/L; O&G—15 mg/L; and
4 iron—1.0 mg/L. An exceedance of annual NALs occurs when the average of all
5 samples obtained for an entire facility during a single reporting year is greater than a
6 particular annual NAL. The reporting year runs from July 1 to June 30. The 2015
7 Permit also establishes the following instantaneous NALs: pH—6.0-9.0 s.u.; TSS—
8 400 mg/L; and O&G—25 mg/L. An instantaneous maximum NAL exceedance
9 occurs when two or more analytical results from samples taken for any single
10 parameter within a reporting year exceed the instantaneous maximum NAL value (for
11 TSS and O&G) or are outside of the instantaneous maximum NAL range for pH.
12 When a discharger exceeds an applicable NAL, it is elevated to “Level 1 Status,”
13 which requires a revision of the SWPPP and additional BMPs. If a discharger
14 exceeds an applicable NAL during Level 1 Status, it is then elevated to “Level 2
15 Status.” For Level 2 Status, a discharger is required to submit an Action Plan
16 requiring a demonstration of either additional BMPs to prevent exceedances, a
17 determination that the exceedance is solely due to non-industrial pollutant sources, or
18 a determination that the exceedance is solely due to the presence of the pollutant in
19 the natural background.

20 34. Section 505(a)(1) and Section 505(f) of the Act provide for citizen
21 enforcement actions against any “person,” including individuals, corporations, or
22 partnerships, for violations of NPDES permit requirements. 33 U.S.C. §§1365(a)(1)
23 and (f), § 1362(5). An action for injunctive relief under the Act is authorized by 33
24 U.S.C. § 1365(a). Violators of the Act are also subject to an assessment of civil
25 penalties of up to \$37,500 per day per violation, pursuant to Sections 309(d) and 505
26 of the Act, 33 U.S.C. §§ 1319(d), 1365. *See also* 40 C.F.R. §§ 19.1 - 19.4.
27
28

1 **V. STATEMENT OF FACTS**

2 35. Defendant CRC owns and/or operates the South Mountain oil and gas
3 field, a 5,757 acre facility located within unincorporated Ventura County to the
4 southeast of the City of Santa Paula.

5 36. The Facility falls within SIC Code 1311 (crude petroleum & natural gas).
6 The SIC Manual defines SIC code 1311 as including “[e]stablishments primarily
7 engaged in operating oil and gas field properties. Such activities may include
8 exploration for crude petroleum and natural gas; drilling, completing, and equipping
9 wells; operation of separators, emulsion breakers, desilting equipment, and field
10 gathering lines for crude petroleum; and all other activities in the preparation of oil
11 and gas up to the point of shipment from the producing property.” *Available at:*
12 https://www.osha.gov/pls/imis/sic_manual.display?id=387&tab=
13 *description.* On information and belief, EDC alleges that the industrial activities
14 conducted at the South Mountain oil and gas field include well drilling, well
15 completion and stimulation, oil production, equipment cleaning and repairing, site
16 closures and remediation, road maintenance, and road construction.

17 37. Based on the Facility’s Notice of Intent to Comply with the Terms of the
18 Industrial General Permit (“NOI”) and SWPPP, review of aerial photography, and
19 EDC’s information and belief, storm water is collected and discharged from the
20 5,757-acre oil and gas field through a diverse range of point sources dispersed
21 throughout the field, including but not limited to numerous well pad sites, road and
22 well pad construction, road drainage infrastructure, erosion gullies and channels
23 associated with roads and pads, and storage and processing units.

24 38. For example, CRC continues to maintain an extensive road system
25 throughout the South Mountain oil and gas field. According to EDC’s information
26 and belief, including visual observation from areas outside the field, and the review of
27 aerial photographs, numerous erosion gullies and channels caused by runoff from the
28

1 Facility's roads exist throughout the Facility. These roads and erosion gullies
2 discharge substantial quantities of sediment, turbidity, TDS, and other pollutants to
3 the creeks within the oil and gas field and subsequently the Santa Clara River,
4 Calleguas Creek, and the Pacific Ocean. Numerous landslides with erosion gullies
5 and channels have also resulted from the Facility's construction and maintenance of
6 roads, drilling pads, and other features that have undercut adjacent hillsides and
7 caused landslides and subsequent erosion channels.

8 39. Defendant channels and collects storm water falling on the Facility
9 through a series of channels that lead to at least four storm water outfalls. Storm
10 water from the various point sources within the South Mountain oil and gas field is
11 eventually discharged to channels that flow into either the Santa Clara River or into
12 Calleguas Creek, which both in turn flow into the Pacific Ocean.

13 40. As stated by the EPA, "oil, gas and mining facilities are among those
14 industrial sites that are likely to discharge storm water runoff that is contaminated by
15 process wastes, toxic pollutants, hazardous substances, or oil and grease," and that
16 "such contamination can include disturbed soils and process wastes containing heavy
17 metals or suspended or dissolved solids, salts, surfactants, or solvents used or
18 produced in oil and gas operations." *NPDES Permit Application Requirements for*
19 *Storm water Discharges*, 55 Fed. Reg. 47,990 at p. 55-56 (Nov. 16, 1990). EPA notes
20 that because oil and gas operations such as the Rincon Grubb oil field "have the
21 potential for serious water quality impacts, Congress recognized . . . the need to
22 control storm water discharges from oil, gas, and mining operations." *Id.*

23 41. Plaintiff is informed and believes, and thereupon alleges that the storm
24 water flows over the surface of the Facility's industrial features, collecting suspended
25 sediment, dirt, and other pollutants as it flows towards the storm water channels.
26 Storm water and any pollutants contained in that storm water enters the channels or
27 drains, flows into the creeks draining the field, and ultimately into the Santa Clara
28

1 River, Calleguas Creek, and the Pacific Ocean.

2 42. On information and belief, Plaintiff alleges that the majority of storm
3 water discharges from the Facility contain storm water that is commingled with runoff
4 from areas at the Facility where industrial processes occur.

5 43. Plaintiff is informed and believes, and thereupon alleges, that the
6 management practices at the South Mountain oil and gas field are currently inadequate
7 to prevent the sources of contamination described above from causing the discharge of
8 pollutants to waters of the United States. The Facility lacks sufficient structural
9 controls such as grading, berming, roofing, containment, or drainage structures to
10 prevent rainfall and storm water flows from coming into contact with exposed areas of
11 contaminants. The Facility lacks sufficient structural controls to prevent the discharge
12 of water once contaminated. The Facility lacks adequate storm water pollution
13 treatment technologies to treat storm water once contaminated.

14 44. Since at least April 5, 2011, Defendant has taken samples or arranged for
15 samples to be taken of storm water discharges at the Facility. The sample results were
16 reported in the Facility's annual reports submitted to the Regional Board. Defendant
17 certified each of those annual reports pursuant to the General Permit.

18 45. In annual reports submitted to the Regional Board for the past five years,
19 the Facility has consistently reported extremely high pollutant levels from its
20 sampling results in all of its storm water sampling locations. The Facility's
21 measurements of TSS have been particularly elevated, with readings *orders of*
22 *magnitude* above EPA's benchmark level of 100 mg/L for TSS.

23 46. The Facility has reported several discharges in excess of narrative and
24 numeric water quality standards established in the Basin Plan. These observations
25 have thus violated narrative and numeric water quality standards established in the
26 Basin Plan and have thus violated Discharge Prohibition A(2) and Receiving Water
27 Limitations C(1) and C(2) of the 1997 Permit; Discharge Prohibitions III(C) and
28

1 III(D) and Receiving Water Limitations VI(A) and VI(B) of the 2015 Permit; and are
2 evidence of ongoing violations of Effluent Limitation B(3) of the 1997 Permit and
3 Effluent Limitation V(A) of the 2015 Permit. On November 30, 2012, the Facility
4 observed tan and silty storm water discharged from the Wintz, Willard Canyon, and
5 Main Gate discharge locations. These discharges violate the narrative standards set
6 forth in the Basin Plan for discoloration and turbidity. On March 21, 2011, the
7 Facility measured storm water discharges with pH levels of 9.42 and 9.24 from the
8 South Mountain and Willard Canyon discharge locations, respectively. On December
9 2, 2014, the Facility measured a storm water discharge with a pH level of 9.1 from the
10 Willard Canyon discharge location. These discharges are in violation of the water
11 quality standard for pH of 6.5 – 8.5 set forth in the Basin Plan.

12 47. The levels of TSS in storm water detected by the Facility have exceeded
13 the benchmark value and annual NAL for TSS of 100 mg/L established by EPA and
14 the State Board, respectively, and the instantaneous NAL value for TSS of 400 mg/L
15 established by the State Board. For example, on December 2, 2014, the level of TSS
16 measured by Defendant at one of its outfalls was 9,360 mg/L. That level of TSS is
17 over 90 times the benchmark value and annual NAL for TSS. CRC also has measured
18 levels of TSS in storm water discharged from the Facility in excess of 100 mg/L in
19 nearly every discharge from the Facility during the past five years, including the
20 following dates: January 5, 2016; December 12, 2014; February 28, 2014; November
21 30, 2012; January 21, 2012; and March 21, 2011. Specific dates on which Defendant
22 has measured such exceedances, and the levels and locations of such exceedances, are
23 contained in the Notice Letter attached as Exhibit A.

24 48. In an attachment to its SWPPP, CRC asserts that it has been exempted
25 from reporting limits for TSS, based on its claim that TSS has been demonstrated to
26 be a “natural background” pollutant. The 2015 Permit includes “Natural Background
27 Pollutant Source Demonstration” as a category of “Exceedance Response Actions
28

1 (“ERAs”). 2015 Permit, § XII(D)(2)(c). In order to qualify as an ERA under this
2 category, the discharger must meet nine requirements, including the fundamental
3 requirement to show that the pollutant exceedance (in this case, TSS) is “attributable
4 *solely* to the presence of the pollutant in the natural background that has not been
5 disturbed by industrial activities.” On information and belief, EDC alleges that CRC
6 has not made this demonstration, and accordingly is not exempt from TSS effluent
7 limitation requirements under the General Permit.

8 49. The levels of iron in storm water detected by the Facility have exceeded
9 the benchmark value and annual NAL for iron of 1 mg/L established by EPA and the
10 State Board, respectively. For example, on February 28, 2014, the level of iron
11 measured by Defendant at one of its outfalls was 14 mg/L. That level of TSS is 14
12 times the benchmark value and annual NAL for TSS. CRC also has measured levels
13 of iron in storm water discharged from the Facility in excess of 1 mg/L on the
14 following dates: December 12, 2014; and December 2, 2014. Specific dates on which
15 Defendant has measured such exceedances, and the levels and locations of such
16 exceedances, are contained in the Notice Letter attached as Exhibit A.

17 50. The levels of pH in storm water detected by the Facility have exceeded
18 the benchmark value and annual NAL for pH of 6.0 – 9.0 SU established by EPA and
19 the State Board, respectively. On December 2, 2014, the Facility measured a pH level
20 of 9.1 SU at the Willard Canyon discharge location. On March 21, 2011, the Facility
21 measured storm water discharges with pH levels of 9.42 and 9.24 from the South
22 Mountain and Willard Canyon discharge locations, respectively.

23 51. During the 2011-2012, 2012-2013, 2013-2014, and 2014-2015 wet
24 seasons, the Facility only sampled from one storm event, which the Facility claimed
25 was the first storm event of the wet season, and failed to collect samples from a
26 second storm event. In the explanations for these failures to sample, the Facility
27 repeatedly claimed that no qualifying storm events occurred during the reporting
28

1 period, or that no storms generated sufficient flow for sampling. On information and
2 belief, EDC alleges that there were numerous sampling opportunities during these
3 reporting periods for the Facility to conduct the required sampling and analysis.
4 These dates are contained in the Notice Letter attached as Exhibit A.

5 52. On information and belief, EDC alleges that CRC has continually failed
6 to monitor storm water discharges from a number of discharge locations at the
7 Facility. These locations include additional point sources associated with road
8 drainage infrastructure, erosion gullies and channels associated with roads and pads,
9 and in-stream detention basins.

10 53. On information and belief, EDC alleges that CRC failed to conduct any
11 monthly visual observations during the 2010-2011 wet season. At a minimum, visual
12 observations should have been conducted on March 21, 2011, when the Facility
13 collected storm water samples from three discharge locations.

14 54. On information and belief, EDC alleges that CRC failed to conduct any
15 monthly visual observations during the 2011-2012 wet season. The Facility's
16 explanation that there were no discharges is insufficient. Indeed, CRC collected four
17 storm water samples on January 21, 2012, and it should have conducted monthly
18 visual observations on that date. Attachment A of Exhibit A also shows several
19 months during the 2011-2012 wet season when, on information and belief, EDC
20 alleges that discharges occurred.

21 55. On information and belief, EDC alleges that CRC failed to conduct any
22 monthly visual observations during the 2012-2013 wet season with the exception of
23 November 2012. Attachment A of Exhibit A shows rain events during several months
24 of the 2012-2013 wet season when, on information and belief, EDC alleges that
25 discharges occurred.

26 56. On information and belief, EDC alleges that CRC failed to conduct any
27 monthly visual observations during the 2013-2014 wet season with the exception of
28

1 February 2014. Attachment A of Exhibit A shows rain events during several months
2 of the 2013-2014 wet season when, on information and belief, EDC alleges that
3 discharges occurred.

4 57. On information and belief, EDC alleges that CRC failed to conduct any
5 monthly visual observations during the 2014-2015, notwithstanding that the Facility
6 collected a number of storm water samples during December 2014. Attachment A of
7 Exhibit A shows rain events during several months of the 2014-2015 wet season
8 when, on information and belief, EDC alleges that discharges occurred.

9 58. On information and belief, EDC alleges that CRC failed to properly
10 record its visual observations of storm water discharges on December 2, 2014. On
11 this date, South Mountain conducted observations of storm water discharges and did
12 not report observing any pollutants. However, the Facility's storm water sampling
13 results for these dates indicate levels of TSS well above the benchmark value and
14 average NAL of 100 mg/L – levels at which EDC alleges that CRC should be
15 observing the presence of cloudiness or discoloration in its storm water discharges.
16 These discharges contained TSS concentrations of 9,360 mg/L, 2,070 mg/L, 5,470
17 mg/L, 1,150 mg/L, and 900 mg/L. EDC alleges that it would be impossible for waters
18 with TSS concentrations in this range to be free of cloudiness or discoloration.

19 59. On information and belief, EDC alleges that CRC has failed to monitor
20 for a number of pollutants in storm water discharges at the Facility, including but not
21 limited to total petroleum hydrocarbons, chemical oxygen demand, chlorides, barium,
22 naphthalene, phenanthrene, benzene, lead, arsenic, fluoride, acetone, toluene, ethanol
23 xylenes, barium, antimony, aluminum, zinc, antimony, copper, mercury, and nickel.

24 60. On information and belief, EDC alleges that CRC failed to analyze its
25 storm water discharges for iron during the 2011-2012 and 2012-2013 wet seasons, as
26 well as all discharges sampled subsequent to the 2014-2015 wet season.

27 61. On information and belief, Plaintiff alleges that since at least April 5,
28

1 2011, Defendant has failed to implement BAT and BCT at the Facility for their
2 discharges of TSS, pH, iron, and other un-monitored pollutants. Effluent Limitation
3 B(3) of the 1997 Permit and Effluent Limitation V(A) of the 2015 Permit requires that
4 Defendant implement BAT for toxic and nonconventional pollutants and BCT for
5 conventional pollutants by no later than October 1, 1992. As of the date of this
6 Complaint, Defendant has failed to implement BAT and BCT.

7 62. On information and belief, Plaintiff alleges that since at least April 5,
8 2011, Defendant has failed to implement an adequate SWPPP for the Facility.
9 Plaintiff is informed and believes, and thereupon alleges, that the SWPPP prepared for
10 the Facility does not set forth site-specific best management practices for the Facility
11 that are consistent with BAT or BCT for the Facility. Plaintiff is informed and
12 believes, and thereupon alleges, that the SWPPP prepared for the Facility does not
13 include an adequate assessment of potential pollutant sources, including information
14 such as a quantification of the number and size of well pads and other industrial areas
15 as well as identification of the Facility's road network as a pollutant source; fails to
16 include required BMP descriptions; fails to identify the pollutants that each BMP is
17 designed to reduce or prevent; fails to justify each minimum and advanced BMP not
18 being implemented. According to information available to EDC, Defendant's SWPPP
19 has not been evaluated to ensure its effectiveness and revised where necessary to
20 further reduce pollutant discharges. Plaintiff is informed and believes, and thereupon
21 alleges, that the SWPPP does not include each of the mandatory elements required by
22 the General Permit.

23
24 63. Information available to EDC indicates that as a result of these practices,
25 storm water containing excessive pollutants is being discharged during rain events to
26 channels that flow to either the Santa Clara River or Calleguas Creek, and then
27 ultimately flow to the Pacific Ocean.

28 64. Plaintiff is informed and believes, and thereupon alleges, that Defendant

1 has failed and continues to fail to alter the Facility's SWPPP and site-specific BMPs
2 consistent with the General Permit.

3 65. Information available to Plaintiff indicates that Defendant has not
4 fulfilled the requirements set forth in the General Permit for discharges from the
5 Facility due to the continued discharge of contaminated storm water. Plaintiff is
6 informed and believes, and thereupon alleges, that all of the violations alleged in this
7 Complaint are ongoing and continuing.

8 **VI. CLAIMS FOR RELIEF**

9 **FIRST CAUSE OF ACTION**

10 **Failure to Implement the Best Available and**
11 **Best Conventional Treatment Technologies**
12 **(Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)**

13 66. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if
14 fully set forth herein.

15 67. The General Permit's SWPPP requirements and Effluent Limitation B(3)
16 of the 1997 Permit and Effluent Limitation V(A) of the 2015 Permit require
17 dischargers to reduce or prevent pollutants in their storm water discharges through
18 implementation of BAT for toxic and nonconventional pollutants and BCT for
19 conventional pollutants. Defendant has failed to implement BAT and BCT at the
20 Facility for its discharges of TSS, pH, iron, and other un-monitored pollutants in
21 violation of Effluent Limitation B(3) of the 1997 Permit and Effluent Limitation V(A)
22 of the 2015 Permit.

23 68. Each day since April 5, 2011, that Defendant has failed to develop and
24 implement BAT and BCT in violation of the General Permit is a separate and distinct
25 violation of the General Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a).

26 69. Defendant has been in violation of the BAT/BCT requirements every day
27 since April 5, 2011. Defendant continues to be in violation of the BAT/BCT
28

1 requirements each day that they fail to develop and fully implement BAT/BCT at the
2 Facility.

3 **SECOND CAUSE OF ACTION**
4 **Discharges of Contaminated Storm Water**
5 **in Violation of Permit Conditions and the Act**
6 **(Violations of 33 U.S.C. §§ 1311, 1342)**

7 70. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if
8 fully set forth herein.

9 71. Discharge Prohibition A(2) of the 1997 Permit and Discharge Prohibition
10 III(C) of the 2015 Permit prohibit storm water discharges and authorized non-storm
11 water discharges that cause or threaten to cause pollution, contamination, or nuisance.
12 Receiving Water Limitation C(1) of the 1997 Permit and Receiving Water Limitation
13 VI(B) of the 2015 Permit prohibit storm water discharges to any surface or ground
14 water that adversely impact human health or the environment. Receiving Water
15 Limitation C(2) of the 1997 Permit and Receiving Water Limitation VI(A) and
16 Discharge Prohibition III(D) of the 2015 Permit prohibit storm water discharges that
17 cause or contribute to an exceedance of any applicable water quality standards
18 contained in Statewide Water Quality Control Plan or the applicable Regional Board's
19 Basin Plan.

20 72. Plaintiff is informed and believes, and thereupon alleges, that since at least
21 April 5, 2011, Defendant has been discharging polluted storm water from the Facility
22 in excess of applicable water quality standards in violation of Receiving Water
23 Limitation C(2) of the 1997 Permit and Receiving Water Limitation VI(A) and
24 Discharge Prohibition III(D) of the 2015 Permit.

25 73. During every rain event, storm water flows freely over exposed materials,
26 waste products, and other accumulated pollutants at the Facility, becoming
27 contaminated with sediment, iron, and other un-monitored pollutants at levels above
28 applicable water quality standards. The storm water then flows untreated to channels

1 that flow to either the Santa Clara River or Calleguas Creek, and then ultimately flow
2 to the Pacific Ocean.

3 74. Plaintiff is informed and believes, and thereupon alleges, that these
4 discharges of contaminated storm water are causing or contributing to the violation of
5 the applicable water quality standards in a Statewide Water Quality Control Plan and/or
6 the applicable Regional Board's Basin Plan in violation of Receiving Water Limitation
7 C(2) of the General Permit.

8 75. Plaintiff is informed and believes, and thereupon alleges, that these
9 discharges of contaminated storm water are adversely affecting human health and the
10 environment in violation of Receiving Water Limitation C(1) of the General Permit.

11 76. Every day since at least April 5, 2011, that Defendant has discharged and
12 continue to discharge polluted storm water from the Facility in violation of the General
13 Permit is a separate and distinct violation of Section 301(a) of the Act, 33 U.S.C. §
14 1311(a). These violations are ongoing and continuous.

15
16 **THIRD CAUSE OF ACTION**

17 **Failure to Prepare, Implement, Review, and Update**
18 **an Adequate Storm Water Pollution Prevention Plan**
(Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)

19 77. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if
20 fully set forth herein.

21 78. The General Permit requires dischargers of storm water associated with
22 industrial activity to develop and implement an adequate SWPPP no later than
23 October 1, 1992.

24 79. Defendant has failed to develop and implement an adequate SWPPP for
25 the Facility. Defendant's ongoing failure to develop and implement an adequate
26 SWPPP for the Facility is evidenced by, *inter alia*, Defendant's failure to include an
27 adequate assessment of potential pollutant sources, failure to include required BMP
28

1 descriptions; failure to identify the pollutants that each BMP is designed to reduce or
2 prevent; and failure to justify each minimum and advanced BMP not being
3 implemented.

4 80. Defendant has failed to update the Facility's SWPPP in response to the
5 analytical results of the Facility's storm water monitoring.

6 81. Each day since April 5, 2011, that Defendant has failed to develop,
7 implement and update an adequate SWPPP for the Facility is a separate and distinct
8 violation of the General Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a).

9 82. Defendant has been in violation of the SWPPP requirements every day
10 since April 5, 2011. Defendant continues to be in violation of the SWPPP requirements
11 each day that it fails to develop and fully implement an adequate SWPPP for the
12 Facility.

13
14 **FOURTH CAUSE OF ACTION**
15 **Failure to Develop and Implement an**
16 **Adequate Monitoring and Reporting Program**
(Violation of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)

17 83. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if
18 fully set forth herein.

19 84. The General Permit requires dischargers of storm water associated with
20 industrial activity to have developed and be implementing a monitoring and reporting
21 program (including, *inter alia*, sampling and analysis of discharges) no later than
22 October 1, 1992.

23 85. Defendant has failed to develop and implement an adequate monitoring
24 and reporting program for the South Mountain oil and gas field.

25 86. Defendant's ongoing failure to develop and implement an adequate
26 monitoring and reporting program are evidenced by, *inter alia*, its failure to conduct
27 all required monthly visual observations during the past five wet seasons, its failure to
28

1 properly record all visual observations, and its failure to monitor storm water
2 discharges for iron and other chemicals likely to be present in the Facility's
3 discharges.

4 87. Each day since April 5, 2011, that Defendant has failed to develop and
5 implement an adequate monitoring and reporting program for the Facility in violation
6 of the General Permit is a separate and distinct violation of the General Permit and
7 Section 301(a) of the Act, 33 U.S.C. § 1311(a). The absence of requisite monitoring
8 and analytical results are ongoing and continuous violations of the Act.

9 **VII. RELIEF REQUESTED**

10
11 Wherefore, Plaintiff respectfully requests that this Court grant the following
12 relief:

13 a. Declare Defendant to have violated and to be in violation of the Act as
14 alleged herein;

15 b. Enjoin Defendant from discharging polluted storm water from the
16 Facility unless authorized by the 2015 Permit;

17 c. Enjoin Defendant from further violating the substantive and procedural
18 requirements of the 2015 Permit;

19 d. Order Defendant to immediately implement storm water pollution
20 control and treatment technologies and measures that are equivalent to BAT or BCT;

21 e. Order Defendant to immediately implement storm water pollution
22 control and treatment technologies and measures that prevent pollutants in the Facility's
23 storm water from contributing to violations of any water quality standards;

24 f. Order Defendant to comply with the Permit's monitoring and reporting
25 requirements, including ordering supplemental monitoring to compensate for past
26 monitoring violations;

27 g. Order Defendant to prepare a SWPPP consistent with the Permit's
28

1 requirements and implement procedures to regularly review and update the SWPPP;

2 h. Order Defendant to provide Plaintiff with reports documenting the
3 quality and quantity of their discharges to waters of the United States and their efforts
4 to comply with the Act and the Court's orders;

5 i. Order Defendant to pay civil penalties of up to \$37,500 per day per
6 violation for each violation of the Act since April 5, 2011 pursuant to Sections 309(d)
7 and 505(a) of the Act, 33 U.S.C. §§ 1319(d), 1365(a) and 40 C.F.R. §§ 19.1 - 19.4;

8 j. Order Defendant to take appropriate actions to restore the quality of
9 waters impaired or adversely affected by their activities;

10 k. Award Plaintiff's costs (including reasonable investigative, attorney,
11 witness, compliance oversight, and consultant fees) as authorized by the Act, 33 U.S.C.
12 § 1365(d); and,

13 l. Award any such other and further relief as this Court may deem
14 appropriate.
15

16 Dated: April 5, 2016

Respectfully submitted,

17 LOZEAU DRURY LLP
18

19 By: /s/ Douglas J. Chermak

20 Douglas J. Chermak
21 LOZEAU DRURY LLP
22 410 12th Street, Suite 250
23 Oakland, CA 94607
24 Tel: (510) 836-4200
Fax: (510) 836-4205

25 /s/ Brian Segee (as authorized on 4/5/16)

26 Brian Segee
27 ENVIRONMENTAL DEFENSE CENTER
28 111 W. Topa Topa Street
Ojai, CA 93023

Tel: (805) 640-1832

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Attorneys for Plaintiff

ENVIRONMENTAL DEFENSE CENTER

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EXHIBIT A



January 19, 2016

Sent Via Certified Mail, Return Receipt Requested:

Todd A. Stevens, President and CEO
California Resources Corporation
9200 Oakdale Avenue, 9th Floor
Los Angeles, CA 91311

David Stoneburner, Operations Superintendent
California Resources Production Corporation
270 Quail Court, Suite 201
Santa Paula, CA 93060

Facility Operations Manager
California Resources Production
Corporation
South Mountain Field
19242 South Mountain Road
Santa Paula, CA 93060

Sent Via U.S. Mail:

CT Corporation System
Agent for Service of Process for California Resources Production Corporation
(Entity Number C3707086)
818 West Seventh Street
Suite 930
Los Angeles, CA 90017

January 19, 2016

Clean Water Act Notice of Intent to Sue: CRC South Mountain Oil Field

Page 2

RE: NOTICE OF VIOLATIONS AND INTENT TO FILE SUIT UNDER THE CLEAN WATER ACT

Dear South Mountain Oil Field Owner(s) and/or Operator(s):

We are writing on behalf of the Environmental Defense Center (“EDC”) regarding violations of the Clean Water Act (“CWA”), 33 U.S.C. § 1251 *et seq.*, at the South Mountain oil and gas field, located at 19242 South Mountain Road, Santa Paula, CA (“South Mountain” or “Facility”). The responsible owner(s) and/or operator(s) of the Facility include all of the addressees in this letter, collectively referred to as “California Resources Corporation” or “CRC.”

Specifically, this letter constitutes notice of EDC’s intent to sue CRC for its violations of Section 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342, and California’s General Permit for Storm Water Discharges Associated With Industrial Activities, National Pollutant Discharge Elimination System (“NPDES”) General Permit No. CAS000001, Water Quality Order No. 97-03-DWQ (“1997 Permit”), as renewed by Order No. 2015-0057-DWQ (“2015 Permit”). The 1997 Permit was in effect between 1997 and June 30, 2015, and the 2015 Permit went into effect on July 1, 2015. As explained below, the 2015 Permit maintains or makes more stringent the same requirements as the 1997 Permit. As appropriate, EDC refers to the 1997 and 2015 Permits in this letter collectively as the “General Permit.” As detailed in this Notice Letter, CRC is in ongoing violation of the General Permit and CWA, and its unlawful discharges of pollutants adversely impact the Santa Clara River and its tributaries, Calleguas Creek and its tributaries, and the Pacific Ocean.

This notice is provided pursuant to section 505(a) of the CWA, 33 U.S.C. § 1365(a), and its implementing regulations at 40 C.F.R. §§ 135.1–135.3. Unless CRC takes actions necessary to remedy the ongoing violations of the General Permit and CWA, EDC intends to file suit in U.S. District Court following expiration of the 60-day notice period, seeking injunctive relief and civil penalties, as well as fees and costs. Under the CWA, CRC is subject to penalties of up to \$37,500 per day per violation enumerated below. 40 C.F.R. § 19.4. If CRC has any information demonstrating that one or more of the violations alleged in this notice did not occur or are described incorrectly, please immediately provide this information to EDC.

January 19, 2016

Clean Water Act Notice of Intent to Sue: CRC South Mountain Oil Field

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I. Background

A. Environmental Defense Center

Founded in 1977, EDC is a non-profit 501(c)(3), public benefit corporation with more than 3,000 members, and works primarily in Ventura, Santa Barbara, and San Luis Obispo Counties. EDC's main office is located at 906 Garden Street, in Santa Barbara, California, 93101. EDC's Ventura County office is located at 111 West Topa Topa Street, in Ojai, California. EDC protects and enhances the local environment through education, advocacy, and legal action. Specifically, EDC focuses on clean water, the Santa Barbara Channel, open space and wildlife, and climate and energy.

EDC has members who reside near the Santa Clara River, Calleguas Creek, and the Pacific Ocean in Ventura County, and who regularly use these waters and surrounding areas for recreational activities, including swimming, hiking, kayaking, fishing, and surfing. As described below, the Facility has unlawfully and continuously discharged pollutants into Santa Clara River and its tributaries, and into Calleguas Creek and its tributaries, both of which in turn flow into the Pacific Ocean. These illegal discharges are due to CRC's failure to comply with the General Permit and CWA, and have impaired and will continue to impair EDC members' use and enjoyment of these water bodies. Thus, the interests of EDC's members have been, are being, and will continue to be adversely affected by CRC's failure to comply with the General Permit and CWA.

B. South Mountain's Owners and/or Operators

Information available to EDC indicates that South Mountain is owned and/or operated by the addressees to this letter. CRC has its corporate headquarters in Los Angeles, and owns and operates oil and gas facilities in Los Angeles and Ventura Counties, as well as the Central Valley.

CRC was created in 2014 when Occidental Petroleum Corporation ("OXY"), an international oil and gas exploration and production company headquartered in Houston, Texas, separated its California assets into an independent, publicly traded company. CRC is the state's largest natural gas producer, largest oil and gas producer on a gross-operated basis, and largest oil and gas mineral acreage holder with approximately 2.3 million acres. To the best of EDC's information and knowledge, prior to the creation of CRC, the South

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Clean Water Act Notice of Intent to Sue: CRC South Mountain Oil Field

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Mountain oil field was operated by OXY subsidiary or subsidiaries including but not limited to Vintage Production California, LLC, and Vintage Petroleum, LLC. This Notice shall simply refer to CRC when describing the South Mountain's owners and/or operators, including for past actions taken by its corporate predecessors with Vintage. As explained herein, CRC is liable for violations of the General Permit and the CWA.

C. The Clean Water Act and General Permit

The objective of the CWA is to “restore and maintain the chemical, physical and biological integrity of the Nation’s waters.” 33 U.S.C. §§ 1251(a), 1311(b)(2)(A). To this end, the CWA prohibits the discharge of a pollutant from a point source into waters of the United States except as in compliance with other specified sections of the Act, including Section 402, which provides for NPDES permits. 33 U.S.C. §§ 1311(a), 1342. Section 402(p) establishes the framework for regulating pollutants in industrial storm water discharges under the NPDES program. 33 U.S.C. §1342(p).

In California, the EPA has delegated authority to issue NPDES permits to the State Water Resources Control Board (“State Board”). 33 U.S.C. § 1342(b), (d). In turn, the State Board has delegated the Regional Water Quality Control Board, Los Angeles Region (“Regional Board”), responsibility for the implementation and enforcement of the General Permit in Region 4, which includes Ventura County. In order to discharge storm water lawfully in California, industrial facility operators must enroll in and comply with the terms of the General Permit.

The 1997 Permit requires that dischargers meet all applicable provisions of Sections 301 and 402 of the CWA. These provisions require control of pollutant discharges using Best Management Practices (“BMPs”) that achieve either best available technology economically achievable (“BAT”) or best conventional pollutant control technology (“BCT”) to prevent or reduce pollutants.¹ 1997 Permit, Effluent Limitations B(3); 33 U.S.C. §§ 1311(b)(2)(A), (e).

¹ Effluent Limitation B(3) of the 1997 Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BCT for conventional pollutants, which include TSS, O&G, pH, BOD, and fecal coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional, which must undergo BAT treatment prior to discharge. *Id.*; 40 C.F.R. § 401.15.

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Clean Water Act Notice of Intent to Sue: CRC South Mountain Oil Field

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The 2015 Permit maintains this core statutory requirement to meet BAT/BCT standards. 2015 Permit, Effluent Limitations V(A). The 2015 Permit continues the requirement for all facility operators to develop and implement a Storm Water Pollution Prevention Plan (“SWPPP”) that includes BMPs. *Id.*, Section X. The 2015 Permit now requires operators to implement certain minimum BMPs, as well as advanced BMPs as necessary, to achieve compliance with the effluent and receiving water limitations of the 2015 Permit. *Id.* In addition, the 2015 Permit requires all facility operators to sample storm water discharges more frequently than the 1997 Permit, and to compare sample and analytical results with numeric action levels (“NALs”). *Id.*, Section XI. All facility operators are required to perform Exceedance Response Actions (“ERAs”) as appropriate whenever sampling indicates NAL exceedances. *Id.*, Section XII.

Both the 1997 Permit and the 2015 Permit require facility operators to: (1) submit a Notice of Intent (“NOI”) that certifies the type of activity or activities undertaken at the facility and commits the operator to comply with the terms and conditions of the permit; (2) eliminate unauthorized non-stormwater discharges; (3) develop and implement a SWPPP; (4) perform monitoring of storm water discharges and authorized non-stormwater discharges; and (5) file an Annual Report that summarizes the year’s industrial activities and compliance with the General Permit.

II. South Mountain and Associated Discharges of Pollutants

A. South Mountain Field Site Description

The Facility comprises approximately 5,757 acres, concentrated on the slopes and flanks of South Mountain, located within unincorporated Ventura County to the southeast of the City of Santa Paula. Oil development within the South Mountain field occurs on elevations ranging from 500 to 2,300 feet above sea level.

Under EPA regulations, oil and gas facilities must obtain storm water NPDES permit coverage when the facility has discharged a “reportable quantity” of a specified pollutant, including discharges of oil, or has contributed to a violation of a water quality standard. 40 C.F.R. § 122.26(c)(iii). The Facility has discharged crude oil and other pollutants to storm water in excess of reportable quantities. Accordingly, CRC was required to obtain CWA NPDES coverage.

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Clean Water Act Notice of Intent to Sue: CRC South Mountain Oil Field

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CRC certified and submitted its NOI via the Stormwater Multiple Application and Report Tracking System ("SMARTS") website on June 9, 2015, and its site map and SWPPP (dated July 1, 2015) on August 12, 2015. The NOI identifies the Facility's Waste Discharge Identification ("WDID") number as 456I020995. According to its NOI, CRC has certified that the Facility's operations fall within SIC Code 1311, and the regulated activity is described as Crude Petroleum and Natural Gas ("Establishments primarily engaged in operating oil and gas field properties").²

According to data from the California Division of Oil, Gas & Geothermal Resources ("DOGGR"), 693 wells have been drilled within the Facility. DOGGR data also shows that there are six active water flood injection wells³ and four active water disposal injection wells⁴ operating within the boundaries of the South Mountain field.⁵

According to CRC's SWPPP, South Mountain encompasses two leases, the South Mountain lease and Saticoy lease.⁶ South Mountain is currently the second largest oil field in terms of production in Ventura County, with 741,528 bbl of oil

² Other potentially applicable SIC codes include: 1381 (drilling oil and gas wells) and 1382 (oil and gas field exploration services)

³ API numbers 11103166 (Termo Company); 11103453; 11103467; 11122248; 11122249; 11122250; 1122251

⁴ API numbers 11103286; 11103407; 11103688; 11103701

⁵ The South Mountain oil field is permitted by the County of Ventura under its local land use authority pursuant to Special Use Permit ("SUP") 22, and Conditional Use Permit ("CUP") 26, CUP, 123, CUP 133, and CUP 143. The SUP and CUPs have no well quantity restrictions and do not have an expiration date. Drilling of new wells or redrilling of existing wells requires issuance of a ministerial Zoning Clearance permit from the County. *See, e.g.*, Ventura County Planning Division Construction Demolition Zoning Clearance for four new wells (issued September 23, 2014).

⁶ CRC's SWPPP description of only two leases appears inconsistent with information in the DOGGR database. DOGGR's database lists numerous additional lease names at the South Mountain oil field in which CRC is listed as the operator including: Calco-Schieferle; Caldwell & Snyder; Casperson; Crane; Culbert; Harvey; Hyde Pinkerton; L. and B.; Lookout; Mark Richardson; Norcop B; Norm Richardson; Norm Richardson Heirs; Norman Richardson; Price; Richardson Community; Richardson Estate; Richardson Ranch B; Santa Paula; Santa Paula Fee; Schieferle Heirs; Sence; Snyder; South Mountain and Ojai; Stewart; Taylor; T-U Bridge Unit; T-U Deep Unit; T-U H.I. Richardson; T-U H.I. Richardson B; T-U Hyde; T-U Hyde-Pinkerton; T-U Mark Richardson; T-U Norcop; T-U Norman Richardson Heirs; T-U Richardson Ranch; T-U Richardson Ranch C; T-U Richardson-Earl; T-U Stine; T-U Stine B; T-U Taylor; T-U Van Lente; T-U Yale Richardson B; T-U Yale Richardson C; Willard; Yale Richardson; and Yale Richardson Two.

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produced last year (as well as 1,256,754 bbl of water). DOGGR 2014 PRELIMINARY REPORT OF CALIFORNIA OIL AND GAS PRODUCTION STATISTICS, at p. 7.

Based on CRC's NOI, SWPPP, review and aerial photography, and EDC's information and belief, storm water is collected from the Facility through a diverse range of point sources dispersed throughout the field. The SWPPP identifies pollution point sources as including well pad sites, well cellars, oil production/tank batteries, equipment storage areas, chemical storage areas, compressors and machinery. Additional point sources not identified in the SWPPP include road drainage infrastructure, and erosion gullies and channels associated with roads and pads, and in-stream detention basins.

The most recent SWPPP prepared by CRC for the Facility on the SMARTS system is dated July 1, 2015. That SWPPP does not provide specific quantified information concerning the number of well pads and other industrial sites. Nor does it provide any specific or detailed information regarding the extent and mileage of the Facility's road system.⁷

B. South Mountain Pollutants

The EPA SECTION I: OIL AND GAS EXTRACTION FACILITIES FACT SHEET (December 2006), part of the EPA Industrial Fact Sheet Series, provides a summary of the permitting program, the types of facilities included in the sector (EPA has produced fact sheets for each of the 29 different industrial sectors regulated under its Multi-State General Permit ("MSGP") for Industrial Activities), a summary of typical pollutants associated with the sector, and types of storm water control measures (including BMPs) used to minimize the discharge of those pollutants. A portion of this Fact Sheet is reproduced as Table 1.

⁷ "Source" is defined under the 2015 Permit to include "[a]ny facility or building, road, or area that causes or contributes to pollutants in stormwater."

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**TABLE 1: COMMON ACTIVITIES, POLLUTANT SOURCES,
AND ASSOCIATED POLLUTANTS
AT OIL AND GAS FACILITIES**

Activity	Pollutant Source	Pollutant
Construction of: Access roads Drill pads Mud/reserve pits Personnel quarters Surface impoundments Storage tanks Pipelines	Soil/dirt, leaking equipment, and vehicles	Total suspended solids (TSS), Total dissolved solids (TDS), oil and grease
Well drilling	Drilling fluid *, lubricants, mud, cuttings, and produced water	TSS, TDS, oil and grease, chemical oxygen demand (COD), chlorides, barium, naphthalene, benzene, lead, arsenic, fluoride
Well completion/stimulation	Fluids (used to control pressure in well), cement, residual oil, acids, surfactants, solvents, produced water, and sand	TSS, TDS, oil and grease, COD, acid, acetone, toluene, ethanol, exlenes
Production	Produced water, oil, waste sludge, tank bottoms, acids, oily debris, and emulsions	Chlorides, TDS, oil and grease, TSS, pH, benzene, phenanthrene, barium, arsenic, lead, antimony
Vehicle and equipment cleaning and repairing	Cleaning solvents, lubricants, and chemical additives	TSS, TDS, oil and grease, pH
Site closures	Residual muds and oily debris	TSS, TDS, oil and grease, pH
Vehicle fueling	Diesel fuel	TSS, TDS, oil and grease

* The potential contaminants to be found in drilling fluid varies from site to site, depending on the components of the fluid and any pollutants added due to use of the fluid. Storm water discharges that come into contact with used drilling fluids may include the following pollutants, among others: toluene, ethyl benzene, xylene, phenol, benzene, and phenanthrene. Used drilling fluids may also contain inorganic pollutants from additives or downhole exposure, such as arsenic, chromium, lead, aluminum, sulfur, and sulfate salts.

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C. Receiving Waters: Santa Clara River and Calleguas Creek

Storm water runoff from the Facility drains to two receiving waters, the Santa Clara River and Calleguas Creek. All of the tributaries within South Mountain are intermittent stream courses adjoined by coastal sage scrub communities, including giant wild rye, sage, sugarbush, laurel sumac, toyon, coyote brush, California live oak, and California black walnut woodlands. Riparian habitat found within the tributary beds and their banks and channels include elderberry and willows. BASIN AND STREAM CROSSING MAINTENANCE CONDITIONS REQUIRED BY THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF VENTURA CASE NO. CIV 178386. (Appendix E to July 1, 2013 SWPPP), at p. 2. These habitats support fish and wildlife including mammals (deer, bear, mountain lion, bobcat, coyote, rabbit, raccoon, ground squirrel); raptors (hawks, vultures, owls); songbirds (including least Bell's vireo); reptiles (western fence and horned lizard, snakes); amphibians (frogs and toads); and macroinvertebrates (crustaceans, insects, and other arthropods).

Runoff from the north slopes of the Facility drains northward into Reach 3 of the Santa Clara River. California Department of Fish and Wildlife ("DFW") has identified three primary tributary stream courses to the Santa Clara River on the north side of South Mountain: Willard Canyon, Morgan Canyon, and an unnamed tributary at the oil field main entrance. BASIN AND STREAM CROSSING MAINTENANCE CONDITIONS REQUIRED BY THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF VENTURA CASE NO. CIV 178386. (Appendix E to July 1, 2013 SWPPP). CRC operates an oil spill containment basis within each of these drainages. Numerous unnamed tributaries to the Santa Clara River are also located on the north side of South Mountain.

The Santa Clara River is Southern California's last naturally flowing major river system, is a vital source of water for both municipal and agricultural uses, and in 2005 was listed as the 10th most endangered U.S. waterway.⁸ In addition to being the largest wild river remaining in Southern California, and one of only a few river systems in the region that has not been channelized by concrete, the Santa Clara River provides crucial aquatic ecosystem functions in the region, including groundwater recharge and riparian habitat. Numerous endangered

⁸ See Daryl Kelley, *Santa Clara River Listed as 10th Most Endangered Waterway*, L.A. Times, Apr. 15, 2005, <http://articles.latimes.com/2005/apr/13/local/me-endangered13>.

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species exist within the watershed and its habitat, including the Santa Ana sucker, tidewater goby, unarmored three-spined stickleback, California red legged frog, arroyo toad, Southwestern willow flycatcher, least Bell's vireo, and the southern California steelhead.⁹

Runoff from the south slopes of the Facility drain southward into Fox Barranca, which in turn drains to Reach 6 of the Calleguas Creek. South Mountain July 1, 2015 SWPPP (Monitoring and Reporting Plan), at p. 17. Calleguas Creek is an approximately 343 square mile watershed, and encompasses several southeastern Ventura County drainages including Conejo Creek, and Arroyos Santa Rosa, Simi, and Los Posas. Most of the major urban areas, including Thousand Oaks, Simi Valley, and Moorpark, are located within the upper portion of the watershed, while agriculture is concentrated in the middle and lower portions of the watershed.

Calleguas Creek water quality is severely compromised in several portions of the watershed, and is listed under 303(d) for impairments of pesticides, DDT, PCBs, metals (including copper, mercury, nickel, zinc, and lead), trash, bacteria and fecal coliform, nutrients (including nitrate, nitrite, and nitrogen), ammonia, sulfates, selenium, TDS, sediment/TSS, toxicity, sediment toxicity, and boron.¹⁰ TMDLs have been established for nutrients; toxics (pesticides and PCBs); toxicity; metals; trash; nutrients; and salts).¹¹

South Mountain forms part of the watershed's northern boundary (along with the Santa Susana and Oak Ridge Mountains), while the Santa Monica Mountains and Simi Hills form the southern boundary. The Calleguas Creek watershed eventually drains into the Pacific Ocean through Mugu Lagoon.

Mugu Lagoon is the largest coastal wetland complex in southern California, yet has lost much of its habitat. Despite this degradation, Mugu Lagoon provides

⁹ The steelhead run on the Santa Clara River prior to 1940 is estimated to have had thousands of fish and to have been one of the largest steelhead runs in southern California. *See* report by Moore, Mark titled "An Assessment of the Impacts of the Proposed Improvements to the Vern Freeman Diversion on Anadromous Fishes of the Santa Clara River System, Ventura County, California" (1980).

¹⁰ See <http://www3.epa.gov/region9/water/watershed/measurew/calleguas/index.html>; http://www.waterboards.ca.gov/losangeles/water_issues/programs/regional_program/Water_Quality_and_Watersheds/calleguas_creek_watershed/summary.shtml.

¹¹ http://www.waterboards.ca.gov/losangeles/water_issues/programs/tmdl/tmdl_list.shtml

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habitat for endangered species including light-footed clapper rail, California least tern, and Belding's savannah sparrow. Point Mugu is one of the few places in southern California where habitat restoration may provide room for inland plant and wildlife migration in response to sea level rise, as well as restoration opportunities for endangered species.¹²

D. Applicable Water Quality Standards

The Regional Board has identified beneficial uses of the Santa Clara River and Calleguas Creek and established water quality standards for them in the "Water Quality Control Plan – Los Angeles Region: Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties", generally referred to as the Basin Plan. See http://www.waterboards.ca.gov/losangeles/water_issues/programs/basin_plan/basin_plan_documentation.shtml. The Basin Plan identifies the "Beneficial Uses" of water bodies in the region. See Basin Plan, Table 2-1, available at http://www.waterboards.ca.gov/losangeles/water_issues/programs/basin_plan/electronics_documents/BeneficialUseTables.pdf.

The Basin Plan includes a narrative toxicity standard which states that "[a]ll waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in, human, plant, animal, or aquatic life." *Id.* at 3-16. The Basin Plan provides that "[w]aters shall not contain suspended or settleable material in concentrations that cause nuisance or adversely affect beneficial uses." *Id.* at 3-16. The Basin Plan provides that "[t]he pH of bays or estuaries [or inland surface waters] shall not be depressed below 6.5 or raised above 8.5 as a result of waste discharges." *Id.* at 3-15. The Basin Plan provides that "[s]urface waters shall not contain concentrations of chemical constituents in amounts that adversely affect any designated beneficial use." *Id.* at 3-8. The Basin Plan provides that "[w]aters shall not contain floating materials, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses." *Id.* at 3-9. The Basin Plan provides that "[w]aters shall be free of coloration that causes nuisance or adversely affects beneficial uses." *Id.* The Basin Plan provides that "[w]aters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses." *Id.* at 3-17. The Basin Plan provides "[w]ater designated for use as Domestic or Municipal Supply (MUN) [such as the Santa Clara River and Calleguas Creek] shall not contain concentrations of

¹² See HISTORICAL ECOLOGY OF THE LOWER SANTA CLARA RIVER, VENTURA RIVER, AND OXNARD PLAIN: AN ANALYSIS OF TERRESTRIAL, RIVERINE, AND COASTAL HABITATS. San Francisco Estuary Institute (August 2011).

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chemical constituents in excess of the limits specified in the following provisions of Title 22 of the California Code of Regulations which are incorporated by reference into this plan: Table 64431-A of Section 64431 (Inorganic Chemicals) and Table 64444-A of Section 64444 (Organic Chemicals). This incorporation by reference is prospective including future changes to the incorporated provisions as the changes take effect. (See Tables 3-8 and 3-9.)” *Id.* at 3-24.

E. Applicable Levels to Determine Compliance with BAT/BCT

The 1997 Permit requires all industrial facilities to sample and analyze storm water discharges for the following parameters: pH, total suspended solids (“TSS”), specific conductance (“SC”), and total organic carbon (“TOC”) or oil and grease (“O&G”). *See* 1997 Permit, § B(5)(c)(i); 2015 Permit, §§ XI(B)(6)(a), (b).

The EPA has published “benchmark” levels as numeric thresholds for helping to determine whether a facility discharging industrial storm water has implemented the requisite BAT and BCT mandated by the CWA. 2008 Multi-Sector General Permit (“MSGP”). These benchmarks represent pollutant concentrations at which a storm water discharge could potentially impair, or contribute to impairing, water quality, or affect human health from ingestion of water or fish. The following EPA benchmarks have been established for pollution parameters applicable to South Mountain: pH—6.0-9.0 s.u.; TSS—100 mg/L; SC—200 uhmos/cm; TOC—110 mg/L; O&G—15 mg/L; and iron—1.0 mg/L.

These benchmarks are reflected in the 2015 Permit in the form of Numeric Action Levels (“NALs”). The 2015 Permit incorporates annual NALs, which reflect the 2008 MSGP benchmark values, and instantaneous NALs, which are derived from a Water Board dataset. The following annual NALs have been established under the 2015 Permit: TSS—100 mg/L; O&G—15 mg/L; and iron—mg/L. The 2015 Permit also establishes the following instantaneous NALs: pH—6.0-9.0 s.u.; TSS—400 mg/L; and O&G—25 mg/L.

III. Alleged Violations of the Clean Water Act and the General Permit

The citizen suit provision of the CWA provides that “any citizen” may commence a suit “against any person,” including a corporation, “who is alleged to be in violation of an effluent standard or limitation under this chapter.” 33 U.S.C. § 1365(a)(1). The CWA in turn defines “effluent standard or limitation” to include “a permit or condition” issued under section 402. *Id.* § 1365(f)(6). Accordingly, a

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citizen may commence a suit alleging violations of the General Permit. *See Natural Resource Defense Council v. Southwest Marine, Inc.*, 236 F. 3d 985 (9th Cir. 2000) (storm water permit enforcement action where company was liable for discharges of “significant contributions of pollutants” and inadequate recordkeeping).

In the years since enrolling under the General Permit, CRC has failed to meet its obligations under the General Permit and CWA. As discussed in further detail below, CRC is in ongoing violation of the General Permit, and its violations span both the 1997 Permit and 2015 Permit. Specifically, CRC has repeatedly discharged storm water in violation of the General Permit’s effluent limitations requiring BAT/BCT; failed to develop an adequate monitoring and reporting program; and failed to develop, implement or update an adequate SWPPP to ensure development and implementation of BMPs that achieve BAT/BCT.

A. Discharges in Violation of the General Permit not Subjected to BAT/BCT

CRC has violated and continues to violate the terms and conditions of the General Permit. The General Permit prohibits any discharges of storm water associated with industrial activities or authorized non-storm water discharges that have not been subjected to BAT or BCT. Effluent Limitation B(3) of the 1997 Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BMPs that meet BAT standards for toxic and nonconventional pollutants, and BCT standards for conventional pollutants.¹³ The 2015 Permit includes the same effluent limitation. *See* 2015 Permit, Effluent Limitation V(A).

In addition, Discharge Prohibition A(1) of the 1997 Permit and Discharge Prohibition III(B) of the 2015 Permit prohibit the discharge of materials other than storm water (defined as non-storm water discharges) that discharge either directly or indirectly to waters of the United States. Discharge Prohibition A(2) of the 1997 Permit and Discharge Prohibition III(C) of the 2015 Permit prohibit storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance.

¹³ Toxic pollutants are listed at 40 C.F.R. § 401.15 and conventional pollutants are listed at 40 C.F.R. § 401.16.

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Receiving Water Limitation C(1) of the 1997 Permit and Receiving Water Limitation VI(B) of the 2015 Permit prohibit storm water discharges and authorized non-storm water discharges that adversely impact human health or the environment. Receiving Water Limitation C(2) of the 1997 Permit and Receiving Water Limitation VI(A) and Discharge Prohibition III(D) of the 2015 Permit also prohibit storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of any applicable water quality standards. The General Permit does not authorize the application of any mixing zones for complying with Receiving Water Limitation C(2) of the 1997 Permit and Receiving Water Limitation VI(A) of the 2015 Permit. As a result, compliance with this provision is measured at the Facility's discharge monitoring locations.

South Mountain has discharged and continues to discharge storm water with unacceptable levels of TSS, pH, and iron in violation of the General Permit. South Mountain's sampling and analysis results reported to the Regional Board confirm discharges of specific pollutants and materials other than storm water in violation of the Permit provisions listed above. Self-monitoring reports under the Permit are deemed "conclusive evidence of an exceedance of a permit limitation." *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).

On November 30, 2012, the Facility observed tan and silty storm water discharged from the Wintz, Willard Canyon, and Main Gate discharge locations. These discharges violate the narrative standards set forth in the Basin Plan for discoloration (Basin Plan at 3-9) and turbidity (Basin Plan at 3-17). On March 21, 2011, the Facility measured storm water discharges with pH levels of 9.42 and 9.24 from the South Mountain and Willard Canyon discharge locations, respectively. On December 2, 2014, the Facility measured a storm water discharge with a pH level of 9.1 from the Willard Canyon discharge location. These discharges are in violation of the water quality standard for pH of 6.5 – 8.5 set forth in the Basin Plan. These observations have thus violated narrative and numeric water quality standards established in the Basin Plan and have thus violated Discharge Prohibition A(2) and Receiving Water Limitations C(1) and C(2) of the 1997 Permit; Discharge Prohibitions III(C) and III(D) and Receiving Water Limitations VI(A) and VI(B) of the 2015 Permit; and are evidence of ongoing violations of Effluent Limitation B(3) of the 1997 Permit and Effluent Limitation V(A) of the 2015 Permit.

The following discharges of pollutants from the Facility have violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and

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C(2) of the 1997 Permit; Discharge Prohibitions III(B) and III(C) and Receiving Water Limitations VI(A) and VI(B) of the 2015 Permit; and are evidence of ongoing violations of Effluent Limitation B(3) of the General Permit.

TABLE 3: SAMPLING DEMONSTRATING EXCEEDANCES OF EPA BENCHMARKS AND APPLICABLE NALS

DATE	PARAMETER	OBSERVED CONCENTRATION	EPA BENCHMARK VALUE / NAL	DISCHARGE LOCATION (AS IDENTIFIED BY OPERATOR)
3/21/11	pH	9.42 SU	6-9 SU	South Mountain
3/21/11	pH	9.24 SU	6-9 SU	Willard Canyon
1/21/12	TSS	160 mg/L	100 mg/L	Taylor Ranch
1/21/12	TSS	200 mg/L	100 mg/L	South Mountain
1/21/12	TSS	74,800 mg/L	100 mg/L	Willard Canyon
1/21/12	TSS	5,800 mg/L	100 mg/L	Wentz Ranch
11/30/12	TSS	94,400 mg/L	100 mg/L	South Mountain
11/30/12	TSS	13,300 mg/L	100 mg/L	Willard Canyon
11/30/12	TSS	6,180 mg/L	100 mg/L	Wentz Canyon
2/28/14	TSS	180 mg/L	100 mg/L	Site G
2/28/14	TSS	300 mg/L	100 mg/L	Site F
2/28/14	TSS	3,950 mg/L	100 mg/L	Empty steel tanks
2/28/14	TSS	690 mg/L	100 mg/L	Richardson Ranch
2/28/14	Fe	14 mg/L	1 mg/L	Willard Canyon
2/28/14	TSS	3,780 mg/L	100 mg/L	Willard Canyon

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2/28/14	Fe	4.9 mg/L	1 mg/L	Wentz Ranch
2/28/14	TSS	5,660 mg/L	100 mg/L	Wentz Ranch
12/2/14	Fe	2 mg/L	1 mg/L	Richardson Ranch
12/2/14	TSS	430 mg/L	100 mg/L	Richardson Ranch
12/2/14	TSS	9,360 mg/L	100 mg/L	Wentz Ranch
12/2/14	Fe	2.4 mg/L	1 mg/L	Willard Canyon
12/2/14	pH	9.1 SU	6-9 SU	Willard Canyon
12/2/14	TSS	2,070 mg/L	100 mg/L	Willard Canyon
12/2/14	TSS	480 mg/L	100 mg/L	South Mountain Water Flood
12/2/14	TSS	5,470 mg/L	100 mg/L	Empty steel tanks
12/2/14	TSS	1,150 mg/L	100 mg/L	Site G
12/2/14	TSS	900 mg/L	100 mg/L	Site F
12/12/14	Fe	3.5 mg/L	1 mg/L	Wentz Ranch
12/12/14	TSS	5,840 mg/L	100 mg/L	Wentz Ranch
12/12/14	TSS	2,370 mg/L	100 mg/L	Willard Canyon
12/12/14	TSS	180 mg/L	100 mg/L	Empty steel tanks

The information in the above tables reflects data gathered from South Mountain's self-monitoring during the 2010-2011, 2011-2012, 2012-2013, and 2014-2015 wet seasons. EDC alleges that during each of those wet seasons and continuing through today, South Mountain has discharged storm water contaminated with pollutants at levels that exceed one or more applicable EPA benchmark values or NALs. Information available to EDC, including CRC sampling data exhibiting consistent exceedances of EPA Benchmarks and NALs, demonstrates that CRC has failed and continues to fail to develop and/or implement BMPs at the Facility that achieve compliance with BAT/BCT standards. South Mountain was required to have implemented BAT and BCT by no later than October 1, 1992, or since the date the Facility opened. Thus, South

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Mountain is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

In addition, the numbers listed in the tables above indicate that the Facility is discharging polluted storm water in violation of Discharge Prohibitions III(B) and III(C) and Receiving Water Limitations VI(A) and VI(B) of the 2015 Permit. EDC alleges that such violations also have occurred and will occur on other rain dates, including every significant rain event that has occurred since January 19, 2011, and that will occur at the Facility subsequent to the date of this Notice of Violation and Intent to File Suit. Attachment A, attached hereto, sets forth each of the specific rain dates on which EDC alleges that South Mountain has discharged storm water containing impermissible levels of TSS, pH, and iron in violation of Effluent Limitation B(3), Discharge Prohibitions A(1) and A(2), and Receiving Water Limitations C(1) and C(2) of the 1997 Permit; and Effluent Limitation V(A), Discharge Prohibitions III(B) and III(C) and Receiving Water Limitations VI(A) and VI(B) of the 2015 Permit.¹⁴

These unlawful discharges from the Facility are ongoing. Every day that CRC does not implement BAT/BCT is a violation of Effluent Limitation B(3) of the General Permit or Effluent Limitation V(A) of the 2015 Permit and is thus a separate and distinct violation of the General Permit and Section 301(a) of the CWA, 33 U.S.C. § 1311(a). CRC is subject to civil penalties for all violations of the CWA occurring since January 19, 2011.

EDC is aware that CRC asserts that it has been exempted from reporting limits for TSS, based on its claim that TSS has been demonstrated to be a “natural background” pollutant. The 2015 Permit includes “Natural Background Pollutant Source Demonstration” as a category of “Exceedance Response Actions (“ERAs”). 2015 Permit, § XII(D)(2)(c). In order to qualify as an ERA under this category, the discharger must meet nine requirements, including the fundamental requirement to show that the pollutant exceedance (in this case, TSS) is “attributable *solely* to the presence of the pollutant in the natural background that has not been disturbed by industrial activities.” CRC has not made this demonstration, and accordingly is not

¹⁴ The rain dates are all the days when 0.1” or more of rain fell as measured by a weather station located near Briggs Road and Highway 126 in Santa Paula, California, approximately 5 miles away from the Facility. See http://www.ipm.ucdavis.edu/calludt.cgi/WXDESCRIPTION?STN=Santa_Paula.A. (Last accessed on January 19, 2016). The rain dates on the attached table are when a daily average of 0.1” or more rain was observed.

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exempt from TSS effluent limitation requirements under the General Permit.

CRC already has an extensive history of unsuccessful attempts to justify significant TSS exceedances at the South Mountain oil field as “background.” For example, in response to an August 10, 2010 Regional Board letter directing CRC to implement effective BMPs in order to address excessive TSS and specific conductance levels, CRC responded on September 3, 2010 that TSS exceedances were due to the predominantly mountainous terrain and landslides. The Regional Board did not accept this justification, and sent a benchmark exceedance letter on June 28, 2012. On November 15, 2012, Regional Board staff inspected the facility, and issued an associated Notice of Violation letter on December 12, 2012. In that NOV, Regional Board staff specifically addressed and rejected CRC’s attempt to justify its TSS exceedances as solely caused by background conditions:

“Staff realizes that the majority of the site’s total area (5,757 acres) is undeveloped natural land and most of the runoff is from canyon outfalls. Staff also realizes that containing the runoff from the entire 5,757 acres is not feasible. However, per the SWPPP, the permittee is operating in 57 acres. The permittee is responsible for runoff from these disturbed areas. Staff observed dirt roads leading to the drilling rigs and the areas around the rigs had exposed soil. These disturbed areas have the potential to contribute to the sediment runoff. Staff recommends implementation of BMPs such as chevrons, a series of detention basins, or other alternative BMPs in key areas of the 57 acres of the industrial operation to minimize the impact of these areas to water pollutants”

It is undisputed that best management practices significantly reduce the amount of erosion and sediment from oil and gas activities. *See, e.g.*, U.S. Department of the Interior and U.S. Department of Agriculture, SURFACE OPERATING STANDARDS AND GUIDELINES FOR OIL AND GAS EXPLORATION AND DEVELOPMENT (GOLD BOOK) (4th ed. 2006). Rather than seeking unjustified exemptions from the General Permit, CRC should instead invest the time and resources to adequately manage the quantity and quality of storm water pollutant discharges from its industrial activity at South Mountain, including the Facility’s extensive road network.

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B. Failure to Develop, Implement, and/or Revise an Adequate Monitoring and Reporting Program for the Facility

The 1997 Permit requires facility operators to develop and implement an adequate Monitoring and Reporting Program before industrial activities begin at a facility. *See* 1997 Permit, § B(1). The 2015 Permit includes similar monitoring and reporting requirements. *See* 2015 Permit, § XI. The primary objective of the Monitoring and Reporting Program is to detect and measure the concentrations of pollutants in a facility's discharge to ensure compliance with the General Permit's discharge prohibitions, effluent limitations, and receiving water limitations. An adequate Monitoring and Reporting Program therefore ensures that BMPs are effectively reducing and/or eliminating pollutants at the facility, and is evaluated and revised whenever appropriate to ensure compliance with the General Permit.

Sections B(3) - B(16) of the 1997 Permit set forth the monitoring and reporting requirements. As part of the Monitoring Program, all facility operators must conduct visual observations of storm water discharges and authorized non-storm water discharges, and collect and analyze samples of storm water discharges. As part of the Reporting Program, all facility operators must timely submit an Annual Report for each reporting year. The monitoring and reporting requirements of the 2015 Permit are substantially similar to those in the 1997 Permit, and in several instances more stringent.

i. Failure to Conduct Sampling and Analysis

The 1997 Permit requires dischargers to collect storm water samples during the first hour of discharge from the first storm event of the wet season, and at least one other storm event during the wet season, from all storm water discharge locations at a facility. *See* 1997 Permit, § B(5). The 2015 Permit now mandates that facility operators sample *four* (rather than two) storm water discharges from all discharge locations over the course of the reporting year. *See* 2015 Permit, §§ XI(B)(2), (3). Storm water discharges trigger the sampling requirement under the 1997 Permit when they occur during facility operating hours and are preceded by at least three working days without storm water discharge. *See* 1997 Permit, § B(5)(b). The 2015 Permit broadens this qualifying storm event definition by requiring that the storm water discharges be preceded by 48 hours without discharge from any drainage area in order to trigger the sampling requirement. *See* 2015 Permit, § XI(B)(1)(b). A sample must be collected from each discharge point at the facility, and in the event that an operator fails to collect samples from the

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first storm event, the operators must still collect samples from two other storm events and “shall explain in the Annual Report why the first storm event was not sampled.” *See* 1997 Permit, § B(5)(a). The Facility has repeatedly violated these monitoring requirements.

During the 2011-2012, 2012-2013, 2013-2014, and 2014-2015 wet seasons, the Facility only sampled from one storm event, which South Mountain claimed was the first storm event of the wet season, and failed to collect samples from a second storm event. In the explanations for these failures to sample, South Mountain repeatedly claimed that no qualifying storm events occurred during the reporting period, or that no storms generated sufficient flow for sampling. However, as evidenced by the attached rainfall data in Attachment A there were numerous sampling opportunities during these reporting periods for South Mountain to conduct the required sampling and analysis.

In addition, on information and belief, EDC alleges that South Mountain has continually failed to monitor storm water discharges from a number of discharge locations at the Facility. These locations include additional point sources associated with road drainage infrastructure, erosion gullies and channels associated with roads and pads, and in-stream detention basins.

The Facility’s failure to conduct sampling and monitoring as required by the General Permit demonstrates that it has failed to develop, implement, and/or revise a Monitoring and Reporting Program that complies with the requirements of Section B and Provision E(3) of the 1997 Permit, Section XI of the 2015 Permit, and the CWA. CRC is in ongoing violation of the General Permit’s Monitoring and Reporting Program requirements and is subject to civil penalties for all violations of the CWA occurring since January 19, 2011.

ii. Failure to Conduct Visual Observations

Section B of the 1997 Permit describes the visual monitoring requirements for storm water discharges. Facilities are required to make monthly visual observations of storm water discharges (Section B(4)). Section B(7) requires that the visual observations must represent the “quality and quantity of the facility’s storm water discharges from the storm event.” The requirement to make monthly visual observations is continued in Section XI(A) of the 2015 Permit.

On information and belief, EDC alleges that South Mountain failed to

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conduct monthly visual observations of storm water discharges at the Facility during the majority of the past five wet seasons in accordance with the requirements of the General Permit. EDC alleges the following specific failures:

- 2010-2011 wet season – failure to conduct any monthly visual observations. At a minimum, visual observations should have been conducted on March 21, 2011, when the Facility collected storm water samples from three discharge locations.
- 2011-2012 wet season – failure to conduct any monthly visual observations. The Facility's explanation that there were no discharges is insufficient. Indeed, the Facility collected four storm water samples on January 21, 2012. Further, Attachment A shows rain events during several months of the 2011-2012 wet season where discharges were likely.
- 2012-2013 wet season – failure to conduct monthly visual observations for all months except November. Attachment A shows rain events during several months of the 2012-2013 wet season where discharges were likely.
- 2013-2014 wet season - failure to conduct monthly visual observations for all months except February. Attachment A shows rain events during several months of the 2013-2014 wet season where discharges were likely.
- 2014-2015 wet season – failure to conduct monthly visual observations for all months, notwithstanding that the Facility collected a number of storm water samples during December 2014. Further, Attachment A shows rain events during several months of the 2014-2015 wet season where discharges were likely.

On information and belief, EDC alleges that South Mountain failed to properly record its visual observations of storm water discharges on December 2, 2014. On this date, South Mountain conducted observations of storm water discharges and did not report observing *any* pollutants. However, South Mountain's storm water sampling results for these dates indicate levels of TSS well above the benchmark value and average NAL of 100 mg/L (as well as the instantaneous NAL of 400 mg/L) – levels at which EDC alleges that South Mountain should be observing the presence of cloudiness or discoloration in its storm water discharges. These discharges contained TSS concentrations of 9,360 mg/L, 2,070 mg/L, 5,470 mg/L, 1,150 mg/L, and 900 mg/L. EDC alleges that it would be impossible for waters with TSS concentrations in this range to be free of cloudiness or discoloration.

The above violations are ongoing. Consistent with the five-year statute of

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limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, CRC is subject to penalties for violations of the General Permit and the Act's monitoring and sampling requirements since January 19, 2011.

iii. Failure to Analyze for Pollutants That May be Present in Significant Quantities

Under the 1997 Permit, facilities must analyze storm water samples for "toxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities." 1997 Permit, Section B(5)(c)(ii). Under the 2015 Permit, facilities must analyze storm water samples for "[a]dditional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment." 2015 Permit, Section XI(B)(6)(c). EPA has identified numerous pollutants that are expected to be discharged in significant amounts from oil and gas facilities, including but not limited to total petroleum hydrocarbons, chemical oxygen demand, chlorides, barium, naphthalene, phenanthrene, benzene, lead, arsenic, fluoride, acetone, toluene, ethanol xylenes, barium, and antimony. See Table 1.

Moreover, available evidence strongly indicates that South Mountain is discharging significant quantities of toxic chemicals, including metals and petroleum-based pollutants, in its storm water. In a recent study of northern Ventura County coastal watersheds impacted by CRC's Rincon and San Miguel to oil fields (also referred to as "Rincon Grubb"), which are similar facilities to South Mountain, researchers found that storm water samples had high concentrations of total suspended and dissolved solids containing high concentrations of metals, including aluminum, arsenic, barium, lead, and zinc, as well as high concentration of PAHs, including naphthalene and oil and grease. Maximum concentrations above CTR criteria were detected in water samples for toxics including chrysene, antimony, copper, mercury, and nickel.¹⁵

In addition, during the 2013-2014 and 2014-2015 wet seasons, South Mountain analyzed its storm water discharges for iron. The levels of iron frequently exceeded the benchmark/NAL of 1.0 mg/L. However, during the

¹⁵ Blue Tomorrow and Dr. Arturo Keller. NORTHERN VENTURA COUNTY COASTAL WATERSHED PROJECT AND ASSESSMENT (2014).

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previous wet seasons, South Mountain failed to analyze all of its storm water discharges for iron.

CRC has failed to monitor for the above-mentioned pollutants in violation of the General Permit. CRC is in ongoing violation of the General Permit's Monitoring and Reporting Program requirements and is subject to civil penalties for all violations of the CWA occurring since January 19, 2011.

iv. Failure to Submit Accurate and Complete Annual Reports

Section B(14) of the 1997 Permit requires operators to submit an Annual Report to the Regional Board by July 1 of each year. The 1997 Permit, in relevant part, requires that the Annual Report include an Annual Comprehensive Site Compliance Evaluation Report ("ACSCE Report"). As part of the ACSCE Report, the facility operator must review and evaluate all of the BMPs to determine whether they are adequate or whether SWPPP revisions are needed. The Annual Report must be signed and certified by a duly authorized representative, under penalty of law that the information submitted is true, accurate, and complete to the best of his or her knowledge. The 2015 Permit now requires operators to conduct an Annual Comprehensive Facility Compliance Evaluation ("Annual Evaluation") that evaluates the effectiveness of current BMPs and the need for additional BMPs based on visual observations and sampling and analysis results. *See* 2015 Permit, § XV.

Information available to EDC indicates that CRC has consistently failed to comply with Section B(14) of the 1997 Permit, and Section XV of the 2015 Permit. None of the CRC Facility's ACSCE Reports provide an explanation of the CRC Facility's failure to take steps to reduce or prevent high levels of pollutants observed in the Facility's storm water discharges. *See* 1997 Permit Receiving Water Limitation C(3) and C(4) (requiring facility operators to submit a report to the Regional Board describing current and additional BMPs necessary to prevent or reduce pollutants causing or contributing to an exceedance of water quality standards); *see also* 2015 Permit § X(B)(1)(b). These examples of failures to assess the Facility's BMPs and respond to inadequacies in the ACSCE Reports negates a key component of the evaluation process required in self-monitoring programs such as the General Permit. Instead, CRC has consistently disregarded these failures to comply with the General Permit by simply checking the boxes in the ACSCE Report indicating that CRC certifies compliance with the General

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Permit's requirements. By providing erroneous information, CRC has failed to properly respond to EPA benchmark and water quality standard exceedances, in violation of the General Permit.

EDC puts CRC on notice that its failures to submit accurate and complete Annual Reports are violations of Section B(14) of the 1997 Permit, Receiving Water Limitations C(3) and C(4) of the 1997 Permit, and the CWA. CRC is in ongoing violation of Section XV of the 2015 Permit every day the Facility operates without evaluating the effectiveness of BMPs and the need for additional BMPs. These violations are ongoing. Each of these violations is a separate and distinct violation of the General Permit and the CWA. CRC is subject to civil penalties for all violations of the CWA occurring since January 19, 2011.

C. Failure to Develop, Implement, and/or Revise an Adequate Storm Water Pollution Prevention Plan

Under the General Permit, the State Board has designated the SWPPP as the cornerstone of compliance with NPDES requirements for storm water discharges from industrial facilities, and ensuring that operators meet effluent and receiving water limitations. Section A(1) and Provision E(2) of the 1997 Permit require dischargers to develop and implement a SWPPP prior to beginning industrial activities that meet all of the requirements of the 1997 Permit. The objective of the SWPPP requirement is to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges and authorized non-stormwater discharges from the facility, and to implement BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges and authorized non-stormwater discharges. *See* 1997 Permit § A(2); 2015 Permit § X(C). These BMPs must achieve compliance with the General Permit's effluent limitations and receiving water limitations. To ensure compliance with the General Permit, the SWPPP must be evaluated and revised as necessary. 1997 Permit §§ A(9), (10); 2015 Permit § X(B). Failure to develop or implement an adequate SWPPP, or update or revise an existing SWPPP as required, is a violation of the General Permit. 2015 Permit Factsheet § I(1).

Sections A(3)-A(10) of the 1997 Permit set forth the requirements for a SWPPP. Among other requirements, the SWPPP must include: a pollution prevention team; a site map; a list of significant materials handled and stored at the site; a description of potential pollutant sources; an assessment of potential pollutant sources; and a description of the BMPs to be implemented at the facility

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that will reduce or prevent pollutants in storm water discharges and authorized non-stormwater discharges, including structural BMPs where non-structural BMPs are not effective. Sections X(D) – X(I) of the 2015 Permit set forth essentially the same SWPPP requirements as the 1997 Permit, except that all dischargers are now required to develop and implement a set of minimum BMPs, as well as any advanced BMPs as necessary to achieve BAT/BCT, which serve as the basis for compliance with the 2015 Permit's technology-based effluent limitations and receiving water limitations. *See* 2015 Permit § X(H). The 2015 Permit further requires a more comprehensive assessment of potential pollutant sources than the 1997 Permit; more specific BMP descriptions; and an additional BMP summary table identifying each identified area of industrial activity, the associated industrial pollutant sources, the industrial pollutants, and the BMPs being implemented. *See* 2015 Permit §§ X(G)(2), (4), (5).

The 2015 Permit requires dischargers to implement and maintain, to the extent feasible, all of the following minimum BMPs in order to reduce or prevent pollutants in industrial storm water discharges: good housekeeping, preventive maintenance, spill and leak prevention and response, material handling and waste management, erosion and sediment controls, an employee training program, and quality assurance and record keeping. *See* 2015 Permit, § X(H)(1). Failure to implement all of these minimum BMPs is a violation of the 2015 Permit. *See* 2015 Permit Fact Sheet § I(2)(o). The 2015 Permit further requires dischargers to implement and maintain, to the extent feasible, any one or more of the following advanced BMPs necessary to reduce or prevent discharges of pollutants in industrial storm water discharges: exposure minimization BMPs, storm water containment and discharge reduction BMPs, treatment control BMPs, and other advanced BMPs. *See* 2015 Permit, § X(H)(2). Failure to implement advanced BMPs as necessary to achieve compliance with either technology or water quality standards is a violation of the 2015 Permit. *Id.* The 2015 Permit also requires that the SWPPP include BMP Descriptions and a BMP Summary Table. *See* 2015 Permit § X(H)(4), (5).

Despite these clear BMP requirements, CRC has been conducting and continues to conduct industrial operations at the Facility with an inadequately developed, implemented, and/or revised SWPPP.

These inadequacies include, but are not limited to a failure to accurately and fully identify potential pollutant sources, which preclude the identification of adequate BMPs. For example, the SWPPP fails to provide basic information, such

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as a simple quantification of the number and size of well pads and other industrial areas. In addition, the SWPPP does not identify the Facility's road network as a pollutant source.

CRC has failed to develop effective and comprehensive BMPs under the terms of the 2015 Permit. CRC's 2015 SWPPP describes only five BMPs, which fail to address a variety of minimum BMPs as required by the 2015 Permit. The 2015 SWPPP further maintains that no additional advanced BMPs are required, which is unlikely given the ongoing presence of high levels of pollutants in the Facility's storm water discharges. The 2015 SWPPP also fails to: (1) include the required BMP Descriptions, (2) identify the pollutants that each BMP is designed to reduce or prevent, and (3) justify each minimum and advanced BMP not being implemented, as required by the 2015 Permit. *See* 2015 Permit §§ X(H)(4)(a)(i), (b).

Most importantly, the Facility's storm water samples and discharge observations have consistently greatly exceeded EPA benchmarks, NALs, and water quality standards, demonstrating the failure of its BMPs to reduce or prevent pollutants associated with industrial activities in the Facility's discharges. Despite these exceedances, CRC has failed to sufficiently update the Facility's SWPPP. South Mountain's SWPPP has therefore never achieved the General Permit's objective to identify and implement BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges and authorized non-stormwater discharges.

EDC puts CRC on notice that it violates the General Permit and the CWA every day that South Mountain operates with an inadequately developed, implemented, and/or revised SWPPP. These violations are ongoing, and EDC will include additional violations as information and data become available. CRC is subject to civil penalties for all violations of the CWA occurring since January 19, 2011.

IV. Persons Responsible for the Violations

EDC puts each of the owners and/or operators of the Facility identified above on notice that they are the entities and/or persons responsible for the violations described above. If additional entities and/or persons are subsequently identified as also being responsible for the violations set forth above, EDC puts the owners and/or operators of the Facility on notice that it intends to include those

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identified persons in this action.

V. Name and Address of Noticing Party

The name, address, and telephone number of EDC are as follows:

Lee Heller
President, Board of Directors
Environmental Defense Center
906 Garden Street
Santa Barbara, CA 93101
(805) 963-1622

VI. Counsel

EDC has retained legal counsel to represent it in this matter. Please direct all communications to:

Michael R. Lozeau
Douglas J. Chermak
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VII. Relief Sought

As detailed in this Notice of Intent to Sue sent to CRC, in accordance with requirements of the CWA, CRC is in violation of multiple requirements of the General Permit, including exceedances of receiving water limitations and effluent limitations, monitoring and reporting violations, and SWPPP violations. Section 309 of the CWA, 33 U.S.C. § 1319(d), as adjusted by 40 C.F.R. § 19.4, provides for penalties of up to \$37,500 per day per violation. In addition to civil penalties, EDC will seek injunctive relief to prevent further violations of the CWA and General Permit pursuant to CWA sections 505(a) and (d), 33 U.S.C. § 1365(a), (d). EDC will also seek to recover its costs associated with this action, including attorneys' fees and experts' fees.

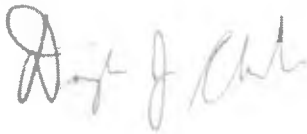
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EDC believes that this Notice of Intent to Sue sufficiently states grounds for filing suit under the CWA. We intend to file a citizen suit under section 505(a) of the CWA against CRC and its agents for the above-referenced violations upon the expiration of the 60-day notice period. During the 60-day notice period, however, we are willing to discuss effective remedies for the violations alleged in this letter. If you wish to pursue such discussions in the absence of litigation, we respectfully request that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period, as we do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,



Douglas J. Chermak
Lozeau Drury LLP



Brian Segee, Senior Attorney
Environmental Defense Center



Michael R. Lozeau
Lozeau Drury LLP

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ATTACHMENT A

Rain Dates, South Mountain, Santa Paula, Ventura County, California

2/15/2011	4/13/2012	2/28/2014
2/16/2011	8/1/2012	3/1/2014
2/18/2011	11/17/2012	10/31/2014
2/25/2011	11/28/2012	11/1/2014
3/2/2011	11/29/2012	12/2/2014
3/19/2011	11/30/2012	12/3/2014
3/20/2011	12/2/2012	12/12/2014
3/21/2011	12/12/2012	12/16/2014
3/23/2011	12/18/2012	12/17/2014
3/24/2011	12/22/2012	1/9/2015
3/25/2011	12/23/2012	1/10/2015
5/9/2011	12/24/2012	1/11/2015
5/17/2011	12/26/2012	2/7/2015
10/5/2011	12/29/2012	2/22/2015
11/6/2011	1/24/2013	3/1/2015
11/11/2011	1/25/2013	4/7/2015
11/12/2011	1/26/2013	5/14/2015
11/20/2011	2/19/2013	5/15/2015
12/12/2011	3/7/2013	10/17/2015
1/21/2012	3/8/2013	12/13/2015
1/23/2012	5/6/2013	12/19/2015
3/17/2012	11/20/2013	12/25/2015
3/25/2012	11/21/2013	12/28/2015
3/31/2012	12/7/2013	12/29/2015
4/10/2012	2/6/2014	1/5/2016
4/11/2012	2/26/2014	
4/12/2012	2/27/2014	